

COURT MINUTES OF HEARING

ALVIN BALDUS, CARLENE BECHEN, ELVIRA BUMPUS, RONALD BIENDSEIL, LESLIE W DAVIS, III, BRETT ECKSTEIN, GLORIA ROGERS, RICHARD KRESBACH, ROCHELLE MOORE, AMY RISSEEUW, JUDY ROBSON, JEANNE SANCHEZ-BELL, CECELIA SCHLIEPP, TRAVIS THYSEN, CINDY BARBERA, RON BOONE, VERA BOONE, EVANJELINA CLEERMAN, SHEILA COCHRAN, MAXINE HOUGH, CLARENCE JOHNSON, RICHARD LANGE, and GLADYS MANZANET

Plaintiffs,

TAMMY BALDWIN, GWENDOLYNNE MOORE and RONALD KIND,

Intervenor-Plaintiffs,

v.

Members of the Wisconsin Government Accountability Board, each only in his official capacity: MICHAEL BRENNAN, DAVID DEININGER, GERALD NICHOL, THOMAS CANE, THOMAS BARLAND, and TIMOTHY VOCKE, and KEVIN KENNEDY, Director and General Counsel for the Wisconsin Government Accountability Board,

Defendants,

F. JAMES SENSENBRENNER, JR., THOMAS E. PETRI, PAUL D. RYAN, JR., REID J. RIBBLE, and SEAN P. DUFFY,

Intervenor-Defendants.

Case No. 11-CV-562
JPS-DPW-RMD

VOCES DE LA FRONTERA, INC., RAMIRO VARA, OLGA VARA, JOSE PEREZ, and ERICA RAMIREZ,

Plaintiffs,

v.

Members of the Wisconsin Government Accountability Board, each only in his official capacity: MICHAEL BRENNAN, DAVID DEININGER, GERALD NICHOL, THOMAS CANE, THOMAS BARLAND, and TIMOTHY VOCKE, and KEVIN KENNEDY, Director and General Counsel for the Wisconsin Government Accountability Board,

Defendants.

Case No. 11-CV-1011
JPS-DPW-RMD

DATE: February 15, 2012
COURT DEPUTY: Zachary Willenbrink
COURT REPORTER: Sheryl Stawski
PURPOSE: Scheduling Conference
PLAINTIFF BY: Douglas Poland, Dustin Brown, Brady Williamson, Wendy Arends
CONSOLIDATED PLAINTIFFS BY: Jacqueline Boynton, Peter Earle
INTERVENOR-PLAINTIFFS BY: Daniel Lenz, P. Scott Hassett
DEFENDANTS BY: Colleen Fielkow, Patrick Hodan, Daniel Kelly, Maria Lazar
INTERVENOR-DEFENDANTS BY: Kellen Casper, Thomas Shriner

11:11 a.m. Appearances

11:12 Judge Stadtmueller welcomes Judges Dow and Wood

11:13 Judge Stadtmueller provides some general trial information: Court will convene at 8:30 a.m. every morning, and will have two breaks and a lunch break during each trial day, Court will stay in session until approximately 6:00 p.m. every evening

11:16 Judge Stadtmueller informs attorneys that they may have communication devices in the courtroom, provided they are set to silent; beverages other than water are not allowed in the courtroom; parties will have access to conference rooms, though at this point the Judge Stadtmueller is unsure of what specific room the parties will be assigned

11:18 Judge Stadtmueller states that parties should provide witnesses with copies of exhibits they intend to use during examination of each separate witness; similarly, Judge Stadtmueller requests that only one lawyer conduct direct or cross of any witness, as well as any objections during opposing counsel's examination of such witness; direct examination will be conducted in the following order: plaintiffs followed by defendants, followed by intervening parties

11:22 Judge Stadtmueller notes that it is best to move in non-stipulated

exhibits during examination of witnesses, requests that parties check with clerk at end of each day to ensure that all exhibits have been properly moved into evidence

11:23 With respect to opening and closing arguments: the Court hopes that parties will be as succinct as possible

11:24 Judge Stadtmueller notes that, once evidence closes, there will be no further briefing or findings of fact following the close of evidence

11:25 Judge Stadtmueller states that the parties must submit specific statements of contested facts prior to trial

11:27 Attorney for plaintiffs discusses motion for summary judgment, a motion *in limine*, and outstanding discovery issue submitted for *in camera* review

11:28 The Court will submit an order on the motion for *in camera* review this afternoon; with regards to motions for summary judgment and judgment on the pleadings outstanding, the Court will take up all such motions together after the end of trial; the Court will address the motion *in limine* at an appropriate time during trial

11:30 Plaintiff asks whether judges would like videotaped copies of depositions synced with audio and text; Judge Stadtmueller states that he does not need such a videotaped copy, Judge Dow and Judge Wood agree

11:32 Plaintiff states that they have coordinated with defendants to use a vendor to provide multimedia presentation of the exhibits; Judge Stadtmueller states that this is acceptable

11:34 Plaintiffs have nothing further

11:34 Consolidated plaintiffs ask that they be given leave to alter coloration of submitted maps, Court grants leave

11:36 Intervening plaintiffs have nothing to raise

11:36 Defendants ask how the Court plans to divide its time between plaintiffs' presentation and defendants' presentation; Judge Stadtmueller states that the Court will not place specific time limits on presentation, but instead hopes that the parties can jointly develop a trial plan

- 11:40 Defendants ask that they be able to revisit this question if trial goes longer than planned; Judge Stadtmueller states that the Court will take up the matter if it becomes necessary
- 11:41 Defendants provides notice to the Court that they may raise some issues regarding race of certain legislators when cross-examining certain experts
- 11:42 Defendants raise questions about Count 9, regarding recall elections, arguing that there is no case or controversy over the recall elections, because the GAB has decided that all recall elections will be held in prior 2002 districts; the Court takes this issue under advisement
- 11:44 Defendant clarifies that evidence used solely for impeachment purposes is not necessary to be disclosed before trial; Court states that the parties should disclose this information to one another, so as to avoid any disputes during trial and exhibits marked
- 11:45 Intervenor-defendants clarify that examination should be completed by one lawyer per party
- 11:46 Intervenor-defendants raise a concern regarding contested facts, reference several paragraphs as examples, stating that referenced portions make statements that are not verifiable facts; Court states that, to the extent that intervenor-defendants find some of these facts to be immaterial, they need not address them in the presentation of evidence; Judge Stadtmueller also clarifies that the intervenor-defendants may make reference to potential testimony to support
- 11:50 Intervenor-defendants state that they did not file a trial brief because they do not believe they have burden of proof; Judge Stadtmueller states that this is acceptable
- 11:51 Plaintiffs request that they be given an opportunity to address defenses raised by plaintiffs in writing; Court gives the plaintiffs until trial ends to present such arguments either in writing or orally
- 11:53 Judge Dow makes statement that the parties should try to focus their arguments and drop any legal claims if it becomes clear that such claims are unsupported by law; Judge Wood states the same, encourages parties to focus on true legal issues

11:54 Court asks whether there will be a request for sequestration order;
plaintiffs state that they do not plan to make such a request

11:55 Parties have nothing further

11:56 Parties state that they will submit specific statements of contested facts
by Monday

11:58 Court stands in recess